

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.MC.No. 629 of 2007()

CC.1051/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM
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PETITIONER: 2ND ACCUSED

VIJAYAN, S/O.GOPALAN ACHARY,
45 YEARS, PUTHENVILLAVEETIL,
NEAR SREE VELAYUDHA AMNGALAM TEMPLE,
MUKOOTHUCHERIYIL, MULAVANA VILLAGE.

BY ADV. SMT.SADHANAKUMARIE.
SMT.GISA SUSAN THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.629 of 2007

Dated this the 6th day of March, 2007

ORDER

The petitioner is the 2nd accused in a prosecution, inter alia, under Sections 324 and 326 read with 34 I.P.C. The case was registered as early as in 2003. The petitioner was not available in India and therefore the case against him has been split up. The case against accused 1 and 3 has not been disposed of yet and the same is also pending, it is submitted.

2. According to the petitioner, the disputes have been settled between the alleged victim and the accused persons. The petitioner's inability to appear earlier was not contumacious, but was on account of reasons beyond his control. He being a person employed abroad, he had no knowledge of the proceedings. The petitioner is now prepared to appear before the learned Magistrate and seek bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He has hence come to this Court with this petition under Section 482 Cr.P.C for a direction to release him on bail on the date of his surrender itself.

3. I find no reason to justify invocation of the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the

learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-